SBCivil Writ Petition No.4036/2005

S.L.Purohit

Vs.

State of Rajasthan & Ors.

Date of Order :: 15th September, 2006

HON'BLE MR.JUSTICE GOVIND MATHUR

Mr. P.K.Lohra, for the petitioner.
Mr. B.L.Tiwari, Dy.Govt.Advocate.

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On June 15, 1998, while discharging duties as Executive Engineer, the petitioner felt severe chest pain and, therefore, he was immediately taken to a Cardiologist who advised him to undergo angiography. The angiography was performed at SMS Hospital, Jaipur on 4.7.1998. However, the report of the angiography was not encouraging and it was revealed that the petitioner is suffering from Ischemic Heart Disease Angina. Looking to it the Principal, Dr. S.N.Medical College, Jodhpur constituted a medical board to examine the state of health of the petitioner and the medical board so constituted after examining the petitioner advised and referred the petitioner for by-pass heart surgery at Escorts Heart Institute and Research Centre, New Delhi. Under the advise and reference made by the medical board referred above the petitioner reported at Escorts Heart Institute and Research Centre, New

Delhi on 17.7.1998 and was subjected to by-pass heart surgery on 31.7.1998. The expenses incurred in such surgery was borne by Government of Rajasthan.

Unfortunately, cardiac problem of the petitioner was again erupted in the month of August, 2003. On medical examination a blockage of right by-pass vein to the extent of 99% was found and the petitioner was again advised to undergo angioplasty. The petitioner was accordingly referred to SMS Medical College, Jaipur. The petitioner made several requests to the authorities of the respondents to permit him to undergo angioplasty at Escorts Heart Institute and Research Centre, New Delhi as earlier too the by-pass surgery was performed there. The petitioner with a view to avail best available medical facility and in order to save his life on 27.8.2003 got the angioplasty performed at Escorts Heart Institute and Research Centre, New Delhi with an expenditure in the tune of Rs.2,05,210/-. The Government of Rajasthan out of total expenditure incurred in angioplasty reimbursed only a sum of Rs.80,000/- but that too was denied for the reaosn that the petitioner undergone the treatment without having approval of the department of finance and in violation of the conditions prescribed by the Principal, SMS Medical College-cum-Comptroller, Associated Group of Hospitals, Jaipur. Hence this petition for writ is preferred by the petitioner.

A reply to the writ petition has been filed on behalf of the respondents stating therein that under Rule 7 of the Rajasthan Civil Services (Medical Attendance) Rules, 1970 the petitioner is not entitled to get any amount beyond the sum of Rs.80,000/- out of expenditure incurred in undergoing angioplasty at Escorts Heart Institute and Research Centre, New Delhi.

Heard counsel for the parties.

In the instant matter the petitioner undergone angiography at SMS Hospital at Jaipur on 4.7.1998 and then bypass surgery at Escorts on 31.7.1998 but he again suffered cardiac ailment that demanded angioplasty. In such circumstances anxiety of a person to be treated at best available medical center is obvious. No one can think of to take any risk with life by not availing the best available medical facility. The petitioner too is not an exception. In the instant matter the petitioner suffered cardiac ailment and his treatment at first instance was conducted at Escorts Heart Institute and Research Centre, New Delhi, therefore, his choice to be treated at Escorts is quite obvious. The government has provided statutory medical benefits including reimbursement of expenses incurred in treatment with an object to extend a helping hand to

its employees suffering serious ailment. No doubt that the petitioner was facing a very serious ailment and government, therefore, should have supported the petitioner by permitting him to undergo surgery at Escorts. In any case the respondents cannot deny the reimbursement of medical expenses for that the petitioner is entitled if he would have undergone treatment at SMS Hospital, Jaipur. As a matter of fact the respondents have, after filing of this petition for writ considered the petitioner's case afresh and paid a sum of Rs.80,000/- in the month of December, 2005. In view of it the claim of the petitioner to the extent of reimbursement of expenses equivalent to the medical expenditure admissible to a government servant in undergoing treatment at SMS Hospital is accepted by the respondents. The claim for remaining amount is required to be reconsidered by the respondents if the petitioner establishes that it was beyond his control to stay at Jaipur and to undergo treatment at SMS Hospital. If the petitioner establishes such extra ordinary circumstances the respondents must allow the entire medical expenses to him for undergoing treatment at Escorts Heart Institute & Research Centre, New Delhi.

In view of whatever stated above this petition for writ is disposed of with direction to the respondents to consider claim of the petitioner for payment of the expenses incurred in undergoing

angioplasty at Escorts Heart Institute and Research Centre, New Delhi by deducting the amount already paid to him , if he submits a representation within a period of three months from today to establish the extra ordinary circumstances that compelled him to undergo surgery at Escorts Heart Institute and Research Centre, New Delhi.

(GOVIND MATHUR),J.

kkm/ps.